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Attorneys for Plaintiff
John Charles Wailes

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN CHARLES WAILES,)	Case No.: 2:24-cv-00836-JDP
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER FOR THE AWARD AND
vs.)	PAYMENT OF ATTORNEY FEES
)	AND EXPENSES PURSUANT TO
MARTIN O'MALLEY,)	THE EQUAL ACCESS TO JUSTICE
Commissioner of Social Security,)	ACT, 28 U.S.C. § 2412(d) AND
)	COSTS PURSUANT TO 28 U.S.C. §
Defendant.)	1920
)	

TO THE HONORABLE JEREMY D. PETERSON, MAGISTRATE
JUDGE OF THE DISTRICT COURT:

IT IS HEREBY STIPULATED, by and between the parties through their undersigned counsel, subject to the approval of the Court, that John Charles Wailes ("Wailes") be awarded attorney fees and expenses in the amount of four thousand seven hundred and twenty-five dollars (\$4,725.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of four hundred and five dollars (\$405.00) under 28 U.S.C. § 1920. This amount represents

1 compensation for all legal services rendered on behalf of Plaintiff by counsel in
2 connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

3 After the Court issues an order for EAJA fees to Wailes, the government
4 will consider the matter of Wailes's assignment of EAJA fees to Matthew F.
5 Holmberg. The retainer agreement containing the assignment is attached as exhibit
6 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor
7 the assignment will depend on whether the fees are subject to any offset allowed
8 under the United States Department of the Treasury's Offset Program. After the
9 order for EAJA fees is entered, the government will determine whether they are
10 subject to any offset.

11 Fees shall be made payable to Wailes, but if the Department of the Treasury
12 determines that Wailes does not owe a federal debt, then the government shall
13 cause the payment of fees, expenses and costs to be made directly to Law Offices
14 of Lawrence D. Rohlfing, Inc., CPC, pursuant to the assignment executed by
15 Wailes.¹ Counsel agrees that any payment may be made either by electronic fund
16 transfer (ETF) or by check.

17 This stipulation constitutes a compromise settlement of Wailes's request for
18 EAJA attorney fees, and does not constitute an admission of liability on the part of
19 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
20 constitute a complete release from, and bar to, any and all claims that Wailes
21 and/or Matthew F. Holmberg including Law Offices of Lawrence D. Rohlfing,
22 Inc., CPC may have relating to EAJA attorney fees in connection with this action.

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25 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

1 This award is without prejudice to the rights of Matthew F. Holmberg and/or
2 the Law Offices of Lawrence D. Rohlfig, Inc., CPC to seek Social Security Act
3 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of
4 the EAJA.

5 DATE: September 19, 2024 Respectfully submitted,

6 LAW OFFICES OF LAWRENCE D. ROHLFING, INC., CPC

7 /s/ *Matthew F. Holmberg*²

8 BY: _____

Matthew F. Holmberg
Attorney for plaintiff John Charles Wailes

9
10 DATED: September 19, 2024 PHILLIP A. TALBERT
United States Attorney
11 MATHEW W. PILE
Associate General Counsel
12 Social Security Administration


13 /s/ *Mary Tsai*

14 _____
MARY TSAI
Special Assistant United States Attorney
15 Attorneys for Defendant
16 MARTIN O'MALLEY, Commissioner of Social
Security (Per e-mail authorization)

17
18 **ORDER**

19
20 IT IS SO ORDERED.

21
22 Dated: October 2, 2024


23 JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE

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25 _____
26 ² Counsel for the plaintiff attests that all other signatories listed, and on whose
behalf the filing is submitted, concur in the filing's content and have authorized the
filing.

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